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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,876	06/28/2003	Peter Yang	4004M	7099
7590 09/08/2004			EXAMINER	
S. Michael Bender P.O. Box 530399 St. Petersburg, FL 33747			JUBA JR, JOHN	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,876

Applicant(s)

YANG, PETER

Examiner

John Juba, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11-16 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/28/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

Claims 6 and 8 are objected to because of the following informalities.

Appropriate correction is required:

In claim 6, there is no antecedent basis for "said respective support panels".

In claim 8, it would be even more clear in line 1 to recite "The apparatus of claim 7 *further comprising* a folded condition locking assembly including:".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacobus (U.S. Patent number 2,461,421). Referring *for example* to Figure 5 and the associated text, Jacobus discloses a folded mirror and carry apparatus, comprising

a foldable reflective surface support assembly (11)(13)(20)(20')(15)(15') which includes support panels (15)(15')(13) connected together by panel interconnection hinges (16)(17), [and]

a non-folded reflective surface assembly (14)(19) supported by said foldable reflective surface support assembly.

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The claims do not recite the non-folded reflective surface assembly as particularly being an assembly of reflective surfaces.

With regard to claim 2, the apparatus further includes a handle (24) connected to a panel (11) of the reflective surface support assembly. The claim does not require each panel of the support assembly to be in contact with the non-folded reflective surface assembly.

Claims 1, 2, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ballard (U.S. Patent number 1,121,785). Ballard discloses a folded mirror apparatus comprising

- a foldable reflective surface support assembly (A)(B) which includes support panels (15)(15a) connected together with panel-interconnection hinges (16), and

- a non-folded reflective surface assembly supported by the foldable reflective surface support assembly,

- the non-folded reflective surfaces of the non-folded reflective surface assembly (14)(14a) being mounted on one side of each of the respective support panels to thus constitute "panel mounted" reflective surfaces.

Given the hardware attached to the rear of the uppermost section (B), one of ordinary skill would understand that Ballard discloses upper and lower "panels" as opposed to skeletal frames.

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With regard to claim 2, Ballard discloses chain (22) as a “handle” attached to the upper section (B) of the foldable assembly (Col. 2, lines 18 – 24).

Claims 1, 4 – 6, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hufeland (U.S. Patent number 365,183). Hufeland discloses a folded mirror and carry apparatus comprising

a foldable reflective surface support assembly which includes support panels (A')(B')(C') connected together with panel-interconnection hinges (not labeled) and metal straps (D¹), (D²), (E), and (F), and

a non-folded reflective surface assembly (A)(B)(C) supported by the foldable reflective surface support assembly,

the non-folded reflective surfaces of the non-folded reflective surface assembly (B)(C) being mounted on one side of each of the respective support panels to thus constitute “panel mounted” reflective surfaces.

With regard to claims 4 and 5, reference may be had to Figures 1, 2, and 5 wherein Hufeland discloses a folded condition locking assembly connected to said foldable reflective surface support assembly, the locking assembly including a first locking member (G) connected to one of said support panels (B'), and a second locking member connected to and shown as protruding from another of said support panels (A'), such that said foldable reflective surface support assembly is locked in the folded up position. The characterization of the folded up condition as a “carrying condition” does not convey any clear structural limitation as would distinguish over the prior art to

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Hufeland, since the folded condition of Hufeland is one in which the mirror is clearly more compact and clearly capable of being carried.

With regard to claim 16, the hinge for panel (B') is on the right-hand side thereof, whereas the hinge for panel (C') is on the opposite side, *i.e.*, the left-hand side thereof. The hinge for panel (B') is on the right-hand side thereof *opposite* the left-hand side hinge of panel (A'), while the hinge for panel (C') is on the left-hand side thereof *opposite* the right-hand side hinge of panel (A').

Claims 1, 6, and 12 – 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohen (U.S. Patent number 4,146,308). Cohen discloses a folded mirror and carry apparatus comprising

a foldable reflective surface support assembly which includes support panels (50)(52), connected together with panel-interconnection hinges defined by "ears" (62) and pins (74); and

a non-folded reflective surface assembly (54)(56) supported by the foldable reflective surface support assembly,

the non-folded reflective surfaces of the non-folded reflective surface assembly being mounted on one side of each of the respective support panels to thus constitute "panel mounted" reflective surfaces.

Although Cohen variously refers to panels (50)(52) as "frames" or "peripheral frame portions", Figure 2 clearly conveys that the mirror "frames" comprise a rear panel portion.

With regard to claims 12 and 13, the apparatus further includes a horizontal-surface-supported mirror support member (16), and means including support-member-to-support-panel hinges defined by pins (38) passing through bores (80) to hingedly connect member (16) to panel (50). With particular regard to claim 12, it is clear from the “three-prong analysis” (Federal Register/Vol. 65, No. 120, pp. 38510 - 38516; June 21, 2000) that the claim indeed invokes 35 USC §112, sixth paragraph. In this case, the specification identifies “support-member-to-support-panel hinges (52)” as the preferred “interconnection means” for connecting the horizontal-surface-supported mirror support member to the bottommost support panel. Insofar as the identified hinges of Cohen permit pivotal motion of the horizontal-surface-support support member with respect to the bottommost support panel, the examiner finds that the prior art hinges perform the same function, in substantially the same way, and produce substantially the same results *with the specificity recited*. Thus, the hinges of Cohen are *prima facie* functional equivalents of the claimed means. See also *Micro Chem., Inc. V. Great Plains Chem. Co., Inc.*, 194 F.3d 1250, 52 USPQ.2d 1258 (Fed. Cir. 1999):

In construing claims drafted in § 112, ¶ 6 form, “[t]he statute does not permit limitation of a means-plus-function *claim by adopting a function different from that explicitly recited in the claim*. Nor does the statute permit incorporation of structure from the written description beyond that necessary to perform the claimed function.” [emphasis added]

With regard to claims 14 and 15, among the topmost support panel and bottommost support panel are included two pairs (22)(24) of longitudinal side portions connected by interconnection elbows to respective transverse portions (26)(28). The

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claims do not specifically require longitudinal side portions and a transverse portion to be “connected” to the topmost panel, but only require that these elements be “included”. The interconnection elbows are shown as integral with the longitudinal side portions and respective transverse portions. In this respect, the elbows are intimately “connected between” the side portions and transverse portion to define an “interconnection”. The claims do not positively recite the elbows as separate elements, and do not define the nature of the interconnection.

With particular regard to claim 15, the bottommost interconnection elbows, being integral with the bottommost transverse portion (“foot member” 16), also serve as feet members for said apparatus when said apparatus is supported on a horizontal surface.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Flynn, Jr. (U.S. Patent number 2,800,127). Referring to the discussion of Figures 1 and 2, Flynn, Jr. discloses an apparatus comprising (in part, from left to right in Fig. 1)

a foldable reflective surface support assembly (29)(38)(24)(23)(38)(36)(39) (9)(8)(39)(36)(38)(12)(13)(38)(17) which includes support panels (23) and (9) connected together with panel interconnection hinges (37), [and]

a non-folded reflective surface assembly (30)(A)(18)(19) supported by said foldable reflective surface support assembly.

The apparatus is “carried” by fireplace andirons, and fairly comprises a heat “mirror”.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobus, in view of Muncy, et al (U.S. Patent number 5,772,036). As set forth above for claims 1 and 2, Jacobus discloses the apparatus substantially as claimed. However, Jacobus discloses a handle connected to the foldable reflective surface support assembly rather than a shoulder strap.

In the same field of endeavor, Muncy, et al disclose a folding mirror and carry apparatus comprising hinged panels (14)(16) supporting a non-folding reflective surface assembly (50). Muncy, et al teach that when such an apparatus is to be carried, it may be desirable for the user to carry the apparatus by hand, or to suspend the apparatus from the shoulder. Muncy, et al teach that the provision of both a handle and a shoulder strap permits the apparatus to be carried in either manner.

It would have been obvious to one of ordinary skill in the art to provide a shoulder strap connected to the foldable reflective surface mirror support assembly of Jacobus in the interest of allowing the apparatus to be carried by suspension from the shoulder as taught by Jacobus. One of ordinary skill would have recognized that provision of a shoulder strap would have freed the hands of user for other occupation, such as carrying additional articles/baggage, writing, or talking on the telephone. Further, the

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artisan would have recognized the rather obvious advantages attendant both an handle and a shoulder strap, such as in providing complete flexibility for a given consumer and in accommodating the preferences of different consumers.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn, Jr., in view of Knudson (U.S. Patent number 1,830,364). As set forth above for claim 1, Flynn, Jr. discloses the foldable reflective surface support assembly and non-folded reflective surface assembly. Further, Flynn, Jr. discloses the non-folded reflective surface assembly as comprising a roller assembly (18)(19)(20)(21) supported by the foldable reflective surface support assembly and a reflective rollable non-folded sheet (A) supported by said roller assembly. Thus, Flynn, Jr. discloses the invention substantially as claimed. However, Flynn, Jr. does not disclose the roller assembly as being retained in a roller assembly housing connected to said foldable reflective surface support assembly, as recited.

In the same field of endeavor, Knudson discloses a rollable shutter, which may be in the form of flexible aluminum, supported between a supply roller assembly and a take-up roller assembly. Knudson teaches that to improve on the otherwise utilitarian appearance of the apparatus, roller assembly housings may be provided in which the roller assemblies are retained. Knudson teaches that provision of the housings not only conceals the inner workings of the apparatus, but allows further ornamentation of the apparatus that can be coordinated with the surrounding décor and thus improve the overall appearance of the fireplace and its surroundings.

It would have been obvious to one of ordinary skill in the art to provide a roller assembly housing for each of the roller assemblies of Flynn, Jr., in the interest of improving the appearance of the apparatus as well as the appearance of the fireplace and its surroundings, as suggested by Knudson. In so doing, it would have been readily apparent to the artisan that such a housing would require support, and would have found the neighboring components of the foldable reflective surface support assembly to be the most conveniently located means of support.

Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freudenfeld (U.S. Patent number Des. 370,129), in view of Official notice. Referring *primarily* to Figures 2 and 6, Freudenfeld discloses a foldable mirror apparatus comprising

a foldable reflective surface support assembly which includes three support elements connected together with panel-interconnection hinges, [and]

a non-folded reflective surface assembly (of three mirror elements) supported by said foldable reflective surface support assembly.

Referring to Figure 6, the foldable support assembly apparently comprises three peripheral framing elements quite apparently joined at the corners to the rear of broader surfaces. Thus, Freudenfeld discloses the invention substantially as claimed. However, Freudenfeld does not expressly disclose the broader (rear) surfaces as support panels, separate and distinct from the reflective surface assembly.

The examiner takes Official notice of the fact that it was well known to support mirror elements within a frame by providing a support panel behind the mirror and enclosed by the frame. The use of support panels was known to provide a convenient means for fastening the frame to the mirror element and for providing a mounting surface with which support or other hardware could be joined without distorting or damaging the mirror element.

It would have been obvious to one of ordinary skill in the art to provide support panels behind the reflective surface assembly of Freudenberg, in the interest of permitting the mirror elements to be mounted within the frames with screws, without distorting or damaging the mirror elements, as was well known. It will be appreciated that the resulting apparatus would have further comprised suction cups connected to the foldable reflective surface support assembly, as recited.

Allowable Subject Matter

Claims 8 – 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter:

The prior art, taken alone or in combination, fails to teach or fairly suggest *the combination* of elements further comprising a folded up first panel lock member connected to the roller assembly housing and a folded up second panel lock member connected to the foldable reflective surface support assembly, as recited in claim 8.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ackerman (U.S. Patent number 5,625,500) discloses a folding mirror apparatus comprising hinged support panels supporting an non-folded reflective surface assembly (20), the apparatus further comprising suction cups.

Harbison, et al (U.S. Patent number 4,056,309) disclose a non-folded reflective surface assembly on rollers, the reflective surface supported by a panel for surface figure control.

Szpur, et al (U.S. Patent number 3,996,947) disclose a folding mirror apparatus comprising hinged panels supporting a non-folding mirror, and suction cups.

Bostwick (U.S. Patent number 2,140,069) discloses a non-folded reflective assembly supported by a foldable reflective surface support assembly comprising three panels interconnected by hinges, the foldable assembly comprising a folded condition locking assembly and an integral handle.

Miller (U.S. Patent number 2,124,146) discloses a full length folding mirror apparatus having a substantially continuous reflecting surface, the apparatus comprising a skeletal frame assembled with panel hinges.

Peters (U.S. Patent number 1,957,847) discloses a foldable mirror comprising suction cups for securing a roller housing, and a plurality of mirror panels foldably linked together, an a mirror brace arm for supporting the mirror in its extended state.

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Miles (U.S. Patent number 1,005,731) discloses a pair of mirror sections joined by hinges.

KURATA K.K. (JP 10-192068 A) disclose a folding mirror comprising a non-folded reflective surface assembly supported by a foldable reflective surface support assembly including support panels connected together with panel-interconnection hinges.


Preston (DE 3544718 A1) discloses a non-folded reflective surface assembly comprising a rollable mirror sheet wound on a roller in a roller assembly housing.

Clanet (FR 2 600 511 A1) discloses a foldable mirror support assembly comprising two *struts* hinged to a roller assembly housing in combination with a rollable mirror sheet wound on a roller in the housing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Juba whose telephone number is (571) 272-2314. The examiner can normally be reached on Mon.-Fri. 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Drew Dunn whose number is (571) 272-2312 and who can be reached on Mon.- Thu., 9 - 5.

The centralized fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for *all* communications.


JOHN JUBA, JR.
PRIMARY EXAMINER
Art Unit 2872

August 20, 2004